

MAR 16 2012

PTO/SB/88 (03-09)

Approved for use through 03/31/2012. OMB 0851-0016
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

801134

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5,988,097

Application Number 09/197,987

Issue Date 11/23/1999

Filing Date 11/23/1998

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.368(c) and (d).

Also complete the following information, if applicable

The above -- identified patent

03/20/2012 DALLEN 00000015 5988097
01 FC:1599 original issue date 630.00 OP

☐

Is a reissue of original Patent No. _____

original application number _____

original filing date _____

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of International application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

3/8/2012

Date

/Gail Taylor Russell/

Signature

Gail Taylor Russell

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

For more assistance in completing the form, call 1-800-PTO-8199 and select option 2.

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 1/2 yr fee	(1551)	<input type="checkbox"/> \$ _____	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$ _____	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 0

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 630.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____☐ Please charge Deposit Account No. _____ the sum of \$ _____☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

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7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. _____

☒

Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

/Gall Taylor Russell/

Signature(s) of Petitioner(s)

3/8/2012

Date

Gall Taylor Russell

Typed or printed name(s)

36,290, Cust. No. 23372

Registration Number, if applicable

512-338-4601

Telephone Number

10601 FM 2222, Suite R-12

Address

Austin, TX 78730

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☐

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(f)(2) (fee for filing the maintenance fee petition)

☒

Enclosed is \$630.00 (\$1,640 reduced by \$700 and reduced by \$310 overpayment)

5,988,097

ATTACHMENT A

DECLARATION

Exhibit A: Edward Frieling Revocable Trust

Exhibit B: First Amendment to the Edward Frieling Revocable Trust Trust

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5,988,097

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assignee: SmartBoat, LLC	Attorney Docket No.: 801134
US Patent No.: 5,988,097	
Issued: 11/23/1999	
Title: Watercraft Stabilized by Controlled Hydrofoil Elevation	

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

DECLARATION OF UNINTENTIONAL ABANDONMENTUNITED STATES PATENT NO. 5,988,097

Sir:

I, Sherrie Frieling, do hereby declare and state:

1. I am the Managing Member of SmartBoat, LLC ("SmartBoat"), the assignee and current owner of United States Patent No. 5,988,097, with the legal authority to submit this declaration on behalf of SmartBoat. The inventor, Edward Frieling, established the Edward Frieling Revocable Trust (the "Trust") on January 18, 1989. The fifth recital of the First Amendment to the Trust, dated December 4, 2002, added Article XIII to the Trust wherein Edward Frieling, as Grantor, gave all his personal property (which includes United States Patent No. 5,988,097) to the Trust. True and correct copies of the Trust and the First Amendment to the Trust are attached as Exhibits A and B, respectively. The trustees of the Edward Frieling Revocable Trust assigned the Trust's rights to United States Patent No. 5,988,097 to themselves and then subsequently assigned the rights to United States Patent No. 5,988,097 to SmartBoat, LLC.

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5,988,097

2. U.S. Patent No. 5,988,097 was unintentionally abandoned for failure to pay the 11.5 year maintenance fee. The patent expired on November 23, 2011.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made herein with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, §1001 of the United States Code, and that any such willful false statements may jeopardize the validity of the application or patent issuing therefrom.

Date: March 8, 2012

Signed: 

Sherrie Frieling
Managing Member
SmartBoat, LLC

RECEIVED
CENTRAL FAX CENTER

MAR 16 2012

EDWARD FRIELING

REVOCABLE TRUST AGREEMENT

THIS TRUST AGREEMENT, is executed this 18TH day of JANUARY, 1989, at Palm Beach County, Florida, by and between EDWARD FRIELING, hereinafter called the "Settlor," and EDWARD FRIELING, hereinafter called the "Trustee." The Settlor has or shall immediately hereafter deliver to the Trustee the property described on Schedule "A" attached hereto, and the Trustee agrees to accept, hold and administer all of said assets, together with all additions thereto and all proceeds therefrom, in trust, pursuant to the following terms:

ARTICLE I - MEMBERS OF SETTLOR'S FAMILY

As of this date, the Settlor's immediate family consists of:

The Settlor's wife, JUDITH FRIELING,
The Settlor's son, LEONARD I. FRIELING,
The Settlor's daughter, ROBIN BRANDVEIN,
The Settlor's daughter, SHERRIE FRIELING,
The Settlor's son, DANIEL M. FRIELING.

All references herein to the Settlor's "Spouse" shall refer to the Settlor's husband, named above.

ARTICLE II - TRUST AMENDMENT AND REVOCATION

At any time or times during the life of the Settlor, by an instrument in writing, signed by the Settlor and delivered to the Trustee, Settlor (i) may amend, alter, modify or change this Trust Agreement in any manner; and/or (ii) withdraw any part or all of the properties contained in the Trust; and/or (iii) may buy, sell or transfer any asset in this trust by executing any appropriate document, whether it be deed, bill of sale, contract, stock or bond certificate, option, stock option, lease or by an oral demand to sell a stock or bond; (iv) may make any deposits and withdrawals from any savings account of this trust, and the right and power to sign checks in any bank account of this trust,

and any bank holding such account may accept his signature on any check; (v) may revoke or terminate this Trust Agreement in part or in whole, in which latter event any and all Trust properties shall forthwith revert to Settlor as her own property free of Trust. Such instrument of amendment or revocation shall be effective immediately upon its acknowledgment, but until a copy has been received by a Trustee, that Trustee shall not incur any liability or responsibility either (a) for failing to act in accordance with such instrument or (b) for acting in accordance with the provisions of this Trust Agreement unaffected by such instrument. All of the Settlor's reserved powers of amendment and revocation, are personal to the Settlor and shall not accrue to any other person or to any guardian appointed for the Settlor nor shall they extend to the estate or legal representative of the Settlor or to any beneficiary mentioned herein.

ARTICLE III - ADMINISTRATION DURING THE LIFETIME OF SETTLOR

During the lifetime of the Settlor, the Trustee, in his sole discretion, shall pay all of the net income, if any, to the Settlor, in convenient installments at least as often as monthly. In addition, the Trustee shall pay to the Settlor, from the principal of the Trust, so much as the Trustee deems necessary for the welfare, support and comfort of the Settlor in his accustomed manner of living. Nothing herein shall prevent the trustee in his sole discretion from allowing any or all income of the trust from accumulating within the trust and the trustee's discretionary powers to withdraw and distribute said income shall be cumulative and nonforfeitable.

ARTICLE IV - INCAPACITY OF SETTLOR

Notwithstanding any other provision of this instrument to the contrary, during any period of time that any "Successor

A. A court order, which such Successor Trustee deems to be jurisdictionally proper and still currently applicable, holding Settlor to be legally incapacitated to act in his own behalf or appointing a guardian to act for her, or

B. Duly executed, witnessed, and acknowledged written certificates of two licensed physicians (each of whom represents that he is certified by a recognized medical board), each certifying that such physician has examined the Settlor and has concluded that, by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration, or other similar cause the Settlor had, at the date thereof, become incapacitated to act rationally and prudently in his own financial best interests, the Settlor shall be deemed to be incapacitated and any attempt by the Settlor to exercise the above reserved rights of revocation, withdrawal of assets, and/or control over the Successor Trustee shall, unless and until a court of competent jurisdiction determines otherwise, be void and totally without effect, this Trust being, during that period of time, irrevocable and unamendable. The Successor Trustee hereunder shall be under no duty to institute any examination into Settlor's possible incapacity, but any such examination reasonably instituted shall be deemed made at Settlor's request, with waiver by Settlor of all provisions of law relating to disclosure of confidential medical information needed in connection therewith, and the expenses thereof may be paid from Trust assets. Any physician's aforesaid certificate may be revoked by a similar certificate to the effect that Settlor is no longer thus incapacitated executed either (i) by the originally certifying physician or (ii) by two other licensed, board-certified physicians. During any period of

the Settlor's incapacity as defined herein, the Successor Trustee shall make payments from the Trust to or for the benefit of the Settlor for his health, support, comfort and maintenance, and such health, support, comfort and maintenance of the Settlor shall be of paramount importance even to the complete exhaustion of the trust.

ARTICLE V - PAYMENT OF SETTLOR'S DEBTS, FUNERAL EXPENSES and TAXES, IF ANY

Upon the Settlor's death, the Successor Trustee shall pay from the residue of the Trust Estate the Settlor's funeral expenses, costs of administration and estate and inheritance taxes assessed by reason of the Settlor's death. The Trustee may make payment directly or to the Settlor's Personal Representative. The Settlor hereby waives all rights of reimbursement for any payments made pursuant to this article.

ARTICLE VI - DISTRIBUTION OF REMAINDER OF TRUST UPON DEATH OF SETTLOR

I hereby delete this paragraph having made other arrangements to provide for my sister Rhoda Ober.
~~A. Upon the death of the Settlor, the Successor Trustee shall distribute \$500.00 a month to Settlor's sister, RHODA OBER, for the duration of her life, stated monthly payments to be increased five percent (5%) per annum; however, the Successor Trustee, in her sole discretion, may terminate the monthly payments provided herein by paying to RHODA OBER the sum of \$50,000.00, thereby relinquishing any future obligations to her.~~

B. Upon the death of the Settlor, if the Settlor's spouse is then alive, the Successor Trustee shall divide the entire remaining Trust Estate, including, but not limited to any proceeds of insurance payable to the Successor Trustee and any assets which may be distributable to the Successor Trustee pursuant to any provisions in the Last Will of the Settlor, or

"Marital Share," and distributed outright to the Settlor's Spouse, the other to be known as the "Residuary Trust." Upon the death of the Settlor, if the spouse of the Settlor is not then alive, the Trust shall not be divided pursuant to the provisions of the last preceding sentence, and the Trust shall be administered pursuant to the terms hereinafter contained relating to the administration of the "Residuary Trust" after the death of the Settlor and the spouse of the Settlor. Subject to the foregoing, if the Settlor is survived by the spouse of the Settlor, the portion of the Trust estate to be distributed as the "Marital Share" and the "Residuary Trust" shall be as follows:

1. The portion to be placed in the "Marital Share" shall be the smallest pecuniary amount which, if allowed as a Federal estate tax marital deduction, would result in the least possible Federal estate tax being payable by reason of the Settlor's death. In determining the portion to be placed in the "Marital Share," the Successor Trustee shall select assets which are fairly representative of appreciation and depreciation of all assets contained in the Trust from the date of the Settlor's death, to the date of division of this Trust. No asset or proceeds of any asset shall be selected as to which a marital deduction is not allowable.

2. All the rest and residue of the Trust after satisfaction of the foregoing provisions of this Article shall be placed in the Residuary Trust, to be administered pursuant to the provisions hereinafter set forth.

ARTICLE VII - ADMINISTRATION OF THE RESIDUARY TRUST DURING THE LIFETIME OF THE SETTLOR'S SPOUSE.

The Residuary Trust shall, during the lifetime of the Settlor's wife, JUDITH FRIELING, shall be administered pursuant

A. The Successor Trustee shall pay to the Settlor's wife, in convenient installments at least as often as annually, an amount equal to all of the net income earned by the Residuary Trust.

B. In addition, the Successor Trustee shall pay to the Settlor's wife, from the principal of the Trust, such amount or amounts or all of the principal as the Trustee may determine to be reasonably required, in addition to all other income and assets of the Settlor's wife known to the Successor Trustees, for the health, support, and maintenance of the Settlor's wife in her accustomed manner of living.

C. Upon the death of the Settlor's spouse, during the period of this Trust for her benefit, or upon Settlor's death in the event he fails to predecease her, the principal of the Residuary Trust, as it is then constituted, together with any undistributed or accumulated income shall be distributed as follows:

1. \$5,000.00 shall be distributed to each surviving grandchild of Settlor.

2. The then remaining balance of the trust estate shall be distributed as follows:

a. The trust estate shall be divided into four (4) equal shares and distributed outright, free of any trust, to each of Settlor's children.

b. If a child of Settlor predeceases the last survivor of Settlor and Settlor's spouse, then that child's share shall be divided one half (1/2) to that child's surviving spouse and one half (1/2) equally unto that child's surviving children. Should such child not leave a surviving spouse, then the entire share shall be distributed equally unto that child's children.

c. Should a child of Settlor predecease the survivor and Settlor's spouse, and such child leave no surviving children, then such child's share shall be divided one half (1/2) to such child's surviving spouse and one half (1/2) equally unto the surviving grandchildren of Settlor.

d. If a child of Settlor predeceases the survivor of Settlor and Settlor's spouse, and leaves no surviving children and no surviving spouse, then such child's share shall lapse and become part of the remaining balance of the trust estate to be distributed as hereinabove set forth.

3. Each share of the Trust Estate which is distributable to a beneficiary who has not reached the age of twenty-five (25) years shall immediately vest in the beneficiary, but the Trustee shall retain possession of the share as a separate trust until the beneficiary reaches the age of twenty-five (25) years, meanwhile paying to or for the benefit of the beneficiary so much or all of the income and principal of the share as the Trustee deems necessary for the beneficiary's health, maintenance, education and best interests, and adding to principal any income not so paid.

4. Any provision heresof to the contrary notwithstanding, if any beneficiary hereunder is or shall become institutionalized, the Trustee's discretion as to the need, propriety or amount of distribution of net income or principal to or for the use and benefit of such beneficiary shall be limited solely to providing only those comforts and luxuries not otherwise provided by such institution, under any publicly funded program or from other sources (public or private). Under no circumstances shall the Trustee exercise her discretion to utilize funds for the

payment of such services that would otherwise be borne by any

publicly funded program or by the institution. The income and the principal of this Trust shall not in any way or manner be subject to or liable for any of the debts, contracts or liabilities of the beneficiary thereof, and shall not be liable to anticipation, sale or pledge, nor subject to attachment, execution or sequestration under any legal, equitable or other process of law.

ARTICLE VIII - SPENDTHRIFT PROVISION

No interest of any beneficiary hereunder and neither the principal nor the income of any Trust created hereunder shall be subject to alienation, pledge, assignment or other anticipation by the beneficiary for whom the same is intended as hereinabove provided, or to attachment, execution, garnishment, sequestration or other seizure under any legal equitable or other process.

ARTICLE IX - SIMULTANEOUS DEATH

If the Settlor's spouse and the Settlor shall die under such circumstances that there is not sufficient evidence to determine the order of their deaths, then it shall be conclusively presumed that the Settlor predeceased the Settlor's spouse, and all the terms of this instrument shall be construed in accordance with said presumption. With the exception of the Settlor's spouse, for all purposes throughout this instrument, no person shall be deemed to have survived the Settlor unless said person is alive thirty (30) days after the date of the Settlor's death.

ARTICLE X - PROVISIONS REGARDING TRUSTEE

A. As Successor Trustee of all Trusts created hereunder, the Settlor names his wife, JUDITH FRIELING. If for any reason she should die, resign or otherwise be unwilling or unable to act, the Settlor names his surviving children, LEONARD I. FRIELING, ROBIN BRANDVEIN, SHERRIE FRIELING, and DANIEL W. FRIELING, or the survivor of them, to serve as successor co-

whom shall be qualified to act without qualification or any other affirmative action whatsoever.

B. Each of my Successor Trustees shall be entitled to one vote in connection with the determination of any action or decision by my Successor Trustees and a majority vote of them shall control. In the event of a deadlock in any such voting, then I authorize my son LEONARD I. FRIELING to break the deadlock, and his decision shall be final and conclusive for all the Successor Trustees.

C. No Successor Trustee shall be required to post bond.

D. No person dealing with the Trustee of any separate trust shall be obligated to inquire as to the powers of such Trustee or to see to the application of any money or property delivered to such Trustee. Such Trustee shall not be required to obtain authority from or approval of any court in the exercise of any power conferred upon her hereunder.

E. The Successor Trustee is authorized to combine, solely for the purpose of investment, any separate Trusts created herein with any other separate Trusts created herein, or with any Trust containing the same or like provisions created by the Settlor or the Settlor's spouse or issue in any other instrument now or hereafter created, provided, however, that separate books of account shall be kept for each separate Trust notwithstanding the physical combination of assets.

F. Any Trustee may resign at any time by written notice to each beneficiary then entitled to have the benefit of the income from the Trust. In case of the resignation, refusal or inability to act of any Trustee acting or appointed to act hereunder and to the extent not otherwise effectively provided for herein who can so act, a majority in interest of the beneficiaries then entitled to have the benefit of the income from the Trust may appoint a

G. Throughout this Trust, any pronouns used in connection herewith shall be construed to include the plural as well as the singular number, and the masculine, feminine and neuter gender, whenever and wherever the context so admits or requires.

H. The term "Trustee" refers to the single, multiple and Successor Trustees, who at any time may be appointed and acting in a fiduciary capacity under the terms of this Agreement.

ARTICLE XI - POWERS OF TRUSTEES

All Trustees and Successor Trustees shall have the continuing power to deal with any property, real, personal, or mixed, held in the Trust, independently, and without the prior or subsequent approval of any court or judicial authority, and no person dealing with the Successor Trustee shall be required to inquire into the propriety of their acts. Without in any way limiting the generality of the foregoing, the Successor Trustees shall have the following specific powers and authority:

1. To sell, exchange, assign, transfer and convey any security or property, real or personal, held in the Trust, at public or private sale, at such time and price and upon such terms and conditions (including credit) as it may determine.

2. To invest and reinvest any Trust assets, including the right to buy, sell and deal in stocks, bonds, partnerships, United States Government securities, all forms of managed accounts, mortgages, notes, mutual funds or other property of any kind, real or personal. The Successor Trustees are also specifically empowered to maintain margin accounts.

3. In addition to the foregoing, the Successor Trustees, shall have all rights and powers conferred pursuant to Florida Statutes, Section 733.612 and 737.402, as those statutes may now exist or be hereafter amended, and generally, the Successor Trustees shall have the power to do any and all acts and things

and to execute any and all written documents with respect to any property at any time held hereunder, which the Successor Trustees would be entitled to do, were such property owned absolutely by the Successor Trustees.

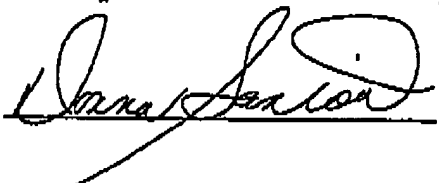
ARTICLE XII - GOVERNING LAW

This agreement shall be construed and regulated in all respects by the laws of the State of Florida.

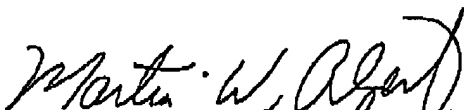
IN WITNESS WHEREOF, the parties hereto have set their hands and seals to this instrument, consisting of this and the nine (9) preceding typewritten pages, on the day and year first above written.


EDWARD FRIELING,
as Settlor and Trustee

We certify that the above instrument was on the date thereof signed, sealed and declared by EDWARD FRIELING as her declaration of trust in our presence, and that we, at his request and in his presence and in the presence of each other, have signed our names as witnesses thereto, believing him to be of sound mind and memory at the time of signing.

 residing at 1499 W. Palmetto Pk. Rd.

Boca Raton, FL 33486



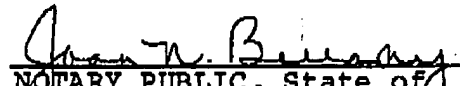
STATE OF FLORIDA)

) ss.

COUNTY OF PALM BEACH)

I HEREBY CERTIFY that before me, a Notary Public duly authorized in the State and County named above, to take acknowledgments, personally appeared EDWARD FRIELING, known to me to be the person described as Settlor and Trustee, respectively, in and who executed the foregoing instrument, and she acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal at Palm Beach County, Florida, on the day and year first above written.


NOTARY PUBLIC, State of
Florida at Large.

My commission expires:
Notary Public, State of Florida

My Commission Expires Jan. 1, 1991
Bonded Thru Troy Fain - Intendant Inc

SCHEDULE "A"

This Schedule is to be attached to the TRUST AGREEMENT dated
18 January 1989 by and between EDWARD
FRIELING as Settlor, and EDWARD FRIELING as Trustee.

1. OAKVIEW DEVELOPMENT CORPORATION (SHORE HAVEN MOBILE COURT)
2. MIELEVILLE MOBILE COURT
3. HOLLY HILL MOBILE COURT

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FIRST AMENDMENT TO TRUST AGREEMENT

FIRST AMENDMENT dated December 4, 2002, to REVOCABLE TRUST AGREEMENT dated January 18, 1989 by and between EDWARD FRIELING, residing at 5670 Willow Creek Court, Delray Beach, Florida 33484, as Settlor, and EDWARD FRIELING, as Trustee.

RECITALS:

1. The Settlor executed a Trust Agreement dated January 18, 1989 in which he is also the Trustee.
2. Pursuant to Article II of the Trust Agreement, the Settlor reserved the right to amend, alter, modify or change the Trust Agreement in any manner.
3. The Settlor wants to amend the Trust Agreement as hereinafter set forth.

FIRST: The Settlor hereby deletes Article VI in its entirety and inserts a new Article VI reading as follows:

ARTICLE VI-DISTRIBUTION OF REMAINDER OF TRUST UPON DEATH OF SETTLOR

- A. Upon the death of the Settlor, if the Settlor's sister, RHODA OBER, shall survive him, or if not, if her husband, EDDIE OBER, shall survive him, or if RHODA OBER shall survive the Settlor and subsequently die and EDDIE OBER shall survive her, the Trustees shall pay over and distribute to such of RHODA OBER or EDDIE OBER who shall then be living, the sum of ONE THOUSAND (\$1,000.00)

DOLLARS per month, so long as either of them shall be living. Upon both deaths and the "Trailer Park(s)" have not been sold, all remainders shall go back to the Trust. Upon the sale of the "Trailer Park(s)" owned by the Trust (as such term is hereinafter defined), if either RHODA OBER or EDDIE OBER is then living, such then living person shall receive a lump sum equal to TEN (10%) PERCENT of the net proceeds of sale (including any installment promissory notes or other deferred proceeds) and the foregoing sum of ONE THOUSAND (\$1,000.00) DOLLARS per month shall terminate and cease being paid. If one of the "Trailer Park(s)" are sold, she shall receive TEN (10%) PERCENT and a reduction of the \$1,000.00 per month to \$700.00 per month. If two (2) "Trailer Park(s)" are sold she shall receive TEN (10%) PERCENT of the sale and \$400.00 per month until the third (3rd) "Trailer Park" is sold and she receives TEN (10%) PERCENT of the net sale price and no further monthly amount.

- B. 1. If the Settlor's wife, JUDITH FRIELING ("JUDITH") shall survive the Settlor, the Trustees shall retain in further trust for the primary benefit of JUDITH a sum equal to the largest amount that can pass free of federal estate tax under this Paragraph B by reason of any tax referred to in Section 2001(b) (2) of the Internal Revenue Code of 1986, as amended from time to time ("Code"), and the applicable credit amount and the state tax credit available to the Settlor's Estate (provided use of the State death tax credit does not require an increase in the state death taxes paid) but no other credit

and reduced by the following items: (a) the Settlor's adjusted taxable gifts, (b) property disposed of by preceding Articles of this Agreement and property passing outside of this Agreement which is incorporated in the Settlor's gross Estate and does not qualify for the marital or charitable deduction and (c) charges to principal which have the effect of reducing the sum disposed of by this Article that are not allowed as deductions in computing the Settlor's federal estate tax. The Settlor recognizes that after the preceding calculation no sum may be disposed of by this Paragraph B and that alternatively the sum so disposed of may be affected by the action of the Trustees in exercising certain tax elections.

2. The Trustees shall hold, manage, invest and reinvest the principal of such trust, collect the income therefrom and pay or apply all of the net income therefrom quarter-annually or at more frequent intervals to or to the use of JUDITH during her life. Upon JUDITH's death, the Trustees shall distribute all of the property then belonging to the principal of such trust pursuant to the provisions of Paragraph C hereof.

- C. If JUDITH shall survive the Settlor, the balance of the property to be distributed in accordance with the provisions of this Article VI shall be held by the Trustees in further trust for the primary benefit of JUDITH (the "Marital Trust"). The Trustees shall hold, manage, invest and reinvest the principal of the Marital Trust, collect the income therefrom and pay or apply all of the net income therefrom quarter-annually or at more frequent intervals to or to the use of JUDITH during her life. Upon JUDITH's death, the Trustees shall distribute all of the property then belonging to

the principal of the Marital Trust pursuant to the provisions of Paragraph D hereof, after payment of taxes, if any, referred to in Subparagraph 1 of this Paragraph C.

1. Upon JUDITH's death, the Trustees shall, except to the extent of JUDITH's Last Will and Testament contains a different direction for the payment of death taxes which specifically refers to the trust created by this Article make available from the property then belonging to the principal of the Marital Trust to the Executors of JUDITH's Estate such amount as said Executors shall determine to be equal to excess of (i) all death taxes which shall become payable by reason of JUDITH's death, over (ii) the death taxes that would have become payable by reason of JUDITH's death if in the computation thereof there had not been included any part of the property belonging to the Trust. The Trustees shall pay this amount at such time or times as JUDITH's Executors from time to time in writing may request as funds are needed to pay said death taxes. The determination of JUDITH's Executors as to the amount payable under this Subparagraph shall be conclusive upon all persons interested in the Marital Trust.
2. The Trustees, in their absolute discretion, shall determine whether to elect under the provisions of the Code or any state death tax law applicable to the Settlor's Estate to qualify any portion of the Marital Trust for the federal or state marital deduction. Generally, it is anticipated that the Trustees will elect to qualify the Marital Trust in its entirety for the federal and state marital deduction. However, it is expected that some consideration be given

to the estate taxes payable in JUDITH's Estate upon her death, especially if she should die prior to the time any such election is made. The determination of the Trustees with respect to the exercise of any such election shall be conclusive upon all affected persons. If any such election is made with respect to either the federal or state marital deduction, no authorization or direction or other provisions contained in this Agreement which would prevent the Marital Trust from qualifying shall apply to the Marital Trust and it is hereby stated that it is the Settlor's intention that any court having jurisdiction over this Agreement construe this instrument accordingly.

3. It is hereby directed that (i) the dispositions which shall pass to the Marital Trust created pursuant to the provisions of this Paragraph C shall not be satisfied with any asset or the proceeds of any asset which does not fully qualify for the marital deduction under the provisions of the Code applicable to the Settlor's Estate and (ii) no property situated (within the meaning of the Code or any United States estate tax convention applicable to the Settlor's Estate) in a foreign country and subject to any estate, inheritance, succession or other death taxes imposed by a foreign country or possession or political subdivision thereof, or the proceeds thereof, shall be used in satisfying said dispositions, except to the extent that the Settlor's Estate may not include sufficient other property to satisfy the same. Anything contained in this Agreement to the contrary notwithstanding, JUDITH, or her power of attorney in fact, shall have the power at any time

and from time to time to compel the Trustees to convert forthwith any non-income producing property in the Marital Trust to income producing property by delivering to the Trustees a written direction to that effect.

D. Whenever any of the foregoing provisions of this Agreement shall provide that property shall be disposed of pursuant to the provisions of this Paragraph D, such property shall be distributed as follows:

1. To each of the Settlor's grandchildren who shall then be living, the sum of FIVE THOUSAND (\$5,000.00) DOLLARS, payable at the rate of ONE HUNDRED (\$100.00) DOLLARS per month for a total of fifty (50) months. This provision shall not be duplicated by any other instrument. The Trustees shall have the right to advance payments to a grandchild if funds are available and if in their discretion, the grandchild has a need for additional funds at any particular time.
2. The balance thereof to the Settlor's children who shall then be living, subject to the provisions of Paragraphs E, F, G and H of this Article VI. If any of the Settlor's children, DANIEL FRIELING or SHERRIE FRIELING, shall not then be living, but there shall then be living children of DANIEL FRIELING or SHERRIE FRIELING, the share which would have been distributed to such predeceased child shall be distributed to the children of said such deceased child on the same conditions pertaining to the parent. If any of the Settlor's children shall not then be living, but there shall be children then living of such predeceased child, the share which such predeceased child would have received had he or she then been living shall

be distributed to the then living children of such child.

- E. 1. Anything herein contained to the contrary notwithstanding, upon the death of the Settlor and JUDITH, if the Settlor, JUDITH or any trust created by either of them, shall own a Trailer Park, the assets or entity constituting the Trailer Park shall not be distributed as provided in Paragraph D hereof, but shall be distributed to the Trustees to be held by them in further trust for the benefit of the person to whom such property was distributable, to manage, invest and reinvest the same, to collect the income therefrom, and
- a. To pay or apply the net income therefrom to or to the use of such person during her life and
 - b. Upon the death of such person, to pay or apply the net income therefrom to or to the use of the persons specified herein as if such person had predeceased the Settlor and JUDITH at the time of the death of the survivor of the Settlor and JUDITH.
 - c. The Trusts set forth in this Paragraph E shall terminate upon the sale of the Trailer Park(s) or as such earlier time as the Settlor, JUDITH, or any trust created by either of them shall no longer own a Trailer Park and the Trailer Park(s) constituting the property of the trusts in this Paragraph E shall be distributed as provided in Paragraph D, subject to the provisions of Paragraphs F, G, and H. Distribution of assets shall be as provided herein with reference to ROBIN

BRANDEVIN as referred to in Paragraph F hereunder.

2. Until the termination of the trusts created in this Paragraph E when the Settlor, JUDITH, or any trust created by either of them shall no longer own a Trailer Park, all funds received by the Trustees from the Trailer Parks shall be deposited in a bank or similar depository. The sole signatory of such account shall be EDWARD FRIELING or Settlor's daughter, SHERRIE FRIELING. If for any reason, SHERRIE FRIELING shall be unable to serve as signatory, Settlor's son DANIEL M. FRIELING shall be the sole signatory. If for any reason SHERRIE FRIELING and DANIEL M. FRIELING, shall be unable to serve as signatory, LEONARD I. FRIELING, shall be the sole signatory. If for any reason SHERRIE FRIELING and DANIEL FRIELING and LEONARD FRIELING shall be unable to serve as signatory, ROBIN BRANDEVIN, shall be the sole signatory. The sole signatory of such account shall distribute the funds Trustees as provided herein.

- F. Whenever any of the foregoing provisions of this Agreement shall require that property be distributed to Settlor's daughter, ROBIN BRANDEVIN ("ROBIN"), subject to the provisions of this Paragraph F, such property shall be distributed to the Trustees to be held by them in further trust for the primary benefit of ROBIN, to manage, invest and reinvest the same, to collect the income therefrom, and

1. To pay or apply the net income therefrom to or to the use of ROBIN during her life, and
2. Upon ROBIN's death, to transfer, pay over the share which would have

been distributed to such predeceased child, shall be distributed to the children of said deceased child on the same conditions pertaining to the parent. If any of the Settlor's children shall not then be living, but there shall be children then living of such predeceased child, the share which such predeceased child would have received had he or she then been living shall be distributed to the then living children of such child.

3. Notwithstanding the provisions of Paragraph 2 hereinabove, if JONATHAN BRANDEVIN, shall not have attained the age of twenty-five (25) years, the share to which he is entitled shall continue to be held by the Trustees who shall pay or apply the net income therefrom to or to the use of JONATHAN until he shall attain the age of twenty-five (25) years, at which time, the then principal of his trust shall be distributed to him. If JONATHAN shall die before attaining the age of twenty-five (25), the then principal of such trust shall be paid to his then living descendants, per stirpes, or if none of them shall then be living, to the Settlor's then living descendants, per stirpes.

G. Whenever any of the foregoing provisions of this Agreement shall require that property be distributed to Settlor's son, LEONARD FRIELING ("LEONARD"), subject to the provisions of this Paragraph G, such property shall be distributed to the Trustees to be held by them in further trust for the primary benefit of LEONARD, to manage, invest and reinvest the same, to collect the income therefrom, and

2. To pay or apply the net income therefrom to or to the use of LEONARD during his life and prior to LEONARD's death he shall request the trustees

to invest his and ROBIN's funds as he sees fit.

3. Upon LEONARD's death, to pay or apply the net income therefrom to or to the use of LEONARD's wife, DEBI DODGE, if married to LEONARD at the time of his death, if she shall survive him, during her life, and
4. Upon the death of the survivor of LEONARD and DEBI, such property shall be paid over and distributed to the Settlor's then living grandchildren, per capita and not per stirpes.

- H. Anything herein contained to the contrary notwithstanding, if at any time during the continuance of any trust for any child of Settlor, the trustees shall determine in their sole discretion that it would be prudent to create income reserves and not pay or apply all of the income from such trust to the income beneficiary thereof, the Trustees may create such income reserves and may pay them out of the income beneficiary at such time as they determine that such reserves are no longer necessary. Such reserves may be made individually in accordance with their needs as determined by the Trustees.
- I. The Trustees, at any time or times, may pay or apply to or to the use of any beneficiary for whom a trust shall be created pursuant to the provisions of this Agreement and to or to the use of his or her descendants or any of them, whenever born, so much or all of the principal of such trust, as in their discretion the Trustees may deem advisable for the proper education, health, maintenance or support of any of them. In exercising their discretion hereunder, it shall not be necessary for the Trustees to inquire as to any other income or property of the person for whom such principal is to be used. Any decision of the Trustees with respect to the exercise of

said discretionary powers, made in good faith, shall fully protect the Trustees and shall be binding and conclusive upon all persons interested in the Settlor's Estate.

- J. For the purposes of this Trust Agreement, the term "mobile home(s)" shall mean any facility used for the rental of house trailers, whether owned by Settlor, JUDITH, any trust created by either of them or any entity (corporation, partnership, limited liability company or the like) in which any of the foregoing has an ownership interest.
- K. Anything herein contained to the contrary notwithstanding any trust created by this Agreement shall terminate twenty-one (21) years after the death of the last survivor of the Settlor and such of the descendants of the Settlor as are in being at the date of this Agreement, subject to all other conditions in this Trust. Upon such termination, the then principal of any such trust fund then in existence shall be transferred, paid over delivered free of trust to the then income beneficiary of each such trust, unless otherwise provided herein.

SECOND: The Settlor hereby deletes Article VII in its entirety.

THIRD: The Settlor hereby amends Article X, Paragraph A to read as follows:

- A. The Settlor hereby designates his daughter, SHERRIE FRIELING, to serve as co-trustee with him of the Trust for the benefit of the Settlor. If EDWARD FRIELING shall for any reason cease to act as Trustee, then the Settlor designates his son, DANIEL M. FRIELING, as Successor Trustee to serve in his place and stead.
- B. The Settlor designates his children, DANIEL M. FRIELING, SHERRIE

FRIELING, LEONARD FRIELING and ROBIN BRANDEVIN, as Trustees of the Trusts for the benefit of JUDITH FRIELING, in Article VI, Paragraph B and C.

- C. The Settlor designates his children, DANIEL M. FRIELING, SHERRIE FRIELING, LEONARD FRIELING and ROBIN BRANDEVIN, as Trustees of the Trusts created under Article VI, Paragraphs D, E, F and G hereof.
- D. If SHERRIE FRIELING shall for any reason fail to qualify or cease to serve as Trustee, her husband, ERNEST ROWELL, shall serve as Successor Trustee in her place and stead. Upon SHAINA ROWELL attaining the age of twenty-five (25) years, she shall replace ERNEST ROWELL as Trustee. If SHAINA ROWELL shall for any reason fail to qualify or cease to serve as Trustee, SCOTT ROWELL, shall become Successor Trustee if he shall have attained the age of twenty-five (25) years. If SCOTT ROWELL shall not have attained have attained the age of twenty-five (25) years or resigns as Trustee, daughter-in-law, WENDY FRIELING, shall be Successor Trustee until SCOTT ROWELL attains the age of twenty-five (25) years. If DANIEL FRIELING shall for any reason fail to qualify or cease to serve as Trustee, his wife, WENDY FRIELING, shall serve as Successor Trustee in his place and stead until JACOB FRIELING shall replace her when he attains the age of twenty-five (25) years. If LEONARD FRIELING shall for any reason fail to qualify or cease to serve as Trustee, Settlor's granddaughter, CAROLYN LEVY, shall serve as Successor Trustee in his place and stead. If ROBIN BRANDEVIN, shall for any reason fail to qualify or cease to serve as Trustee, Settlor's granddaughter, CAROLYN LEVY, shall serve as Successor Trustee in her place and stead. If CAROLYN LEVY, shall for any reason fail to qualify or cease to

serve as Trustee, Settlor's grandson, JOSEPH LEVY, shall serve as Successor Trustee in her place and stead.

- E. If at any time a Trustee named in Paragraph A, B, D or E above shall cease to act for any reason as Trustee and there shall not be any Successor Trustee named for such Trustee, the Successor Trustee shall be elected by the remaining Trustees and delivered to the appointee by his or her duly probated Last Will and Testament. Upon the written acceptance of this Trust, any Successor Trustee designated pursuant to the preceding provisions of this Paragraph and every Successor Trustee designated thereafter shall also have the power to designate a Successor in the same manner specified herein and every Successor Trustee at any time acting hereunder shall have the same duties, powers and discretions as are assumed and conferred in this Agreement upon the Trustees originally designated herein.
- F. If at any time the vote of the Trustees on any decision shall result in a tie vote, LEONARD, if he shall then be acting as a Trustee, shall cast the tie breaking vote. If LEONARD, shall not be acting as Trustee and at any time the vote of the Trustees on any decision shall result in a tie, SHERRIE, if she shall then be acting Trustee, shall cast the tie breaking vote. If SHERRIE shall not be acting as Trustee and at any time the vote of the Trustees on any decision shall result in a tie, DANIEL, if he shall then be acting, shall cast the tie breaking vote. If DANIEL, shall not be acting as Trustee and at any time the vote of the Trustees on any decision shall result in a tie ROBIN, if she shall then be acting, shall cast the tie breaking vote.

FOURTH: The Settlor hereby adds the following sentence to Article X, Paragraph B:

In addition to and not in any limitation of the foregoing and any law authorizing Trustees to act by a majority , the Settlor directs that ministerial duties of the Trustees (such as the signing of checks, execution of brokerage transactions relating to securities or commodities and the like) may be executed by anyone Trustee, subject to terms herein.

FIFTH: The Settlor hereby adds the following new Article XIII:
Article XIII: The Grantor gives all of his personal property to the Trust.

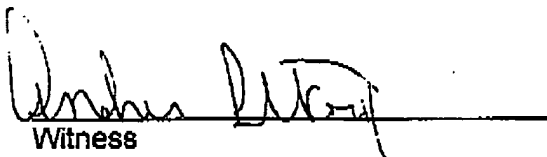
SIXTH: Except as hereby amended, the Settlor hereby ratifies, confirms and approves the Trust Agreement in all respects.

MAR 16 2012

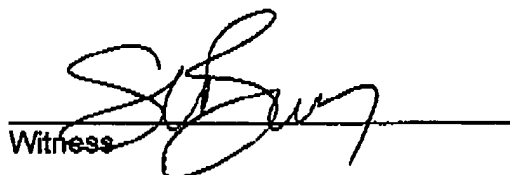
IN WITNESS WHEREOF, We have hereunto subscribed our names and affixed our seal at Delray Beach, Palm Beach County, Florida, on this 4 day of December 2002, to this First Amendment to Trust Agreement, each of which bears the Grantor's signatures, in the presence of the subscribing witnesses hereto.


EDWARD FRIELING

This Instrument was, on the date hereof, signed, sealed, published and declared by the above named Grantor to this her First Amendment to Trust Agreement in our presence, and in the presence of each of us, and we at the same time, at his request, in his presence and in the presence of each other, have hereunto signed our names and addresses as attesting witnesses hereto.


Witness

4775 West Atlantic Avenue
Delray Beach, Florida 33445


Witness

4775 West Atlantic Avenue
Delray Beach, Florida 33445


EDWARD FRIELING

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STATE OF FLORIDA
COUNTY OF PALM BEACH

I, **EDWARD FRIELING**, whose name is signed to the foregoing First Amendment to Trust Agreement, having been sworn, declared to the undersigned officer that the Grantor, in the presence of witnesses, signed this First Amendment to Trust Agreement, that the Grantor signed and each of the witnesses, in the presence of the Grantor and in the presence of each other, signed this First Amendment to Trust Agreement as witnesses.

(Type of Identification)

FLORIDA DRIVER LICENSE

Edward Frieling
EDWARD FRIELING

Personally Known

Walter Utter
Witness

Personally Known

Sharon Brown
Witness

Witnesses addresses are 4775 West Atlantic Avenue
Delray Beach, Florida 33445

The foregoing instrument was acknowledged before me this 4 day of December 2002, by **EDWARD FRIELING** the Grantor, and by **SHARON BROWN** and **ANDREA ABKOWITZ** the witnesses, each of whom did take an oath and each of whom is either personally known to me or has produced the type of identification indicated to the left of their respective signatures.

Ellamae Seyboth
Notary Public, State of Florida at large



Ellamae Seyboth
Commission # CC 941666
Expires June 9, 2004
Bonded Through
Atlantic Bonding Co., Inc.

MAR 16 2012

PTO/SB/81 (01-09)

Approved for use through 11/30/2011. OMB 0581-0036
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS	Application Number	09/197,987
	Filing Date	November 23, 1998
	First Named Inventor	Kamey
	Title	Watercraft stabilized by controlled hydrofoils
	Art Unit	Not Applicable
	Examiner Name	Not Applicable
	Attorney Docket Number	801134

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

233372

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number.

OR

☒ The address associated with Customer Number:

OR

<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Email		

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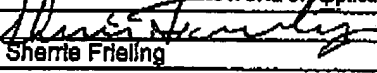
☐ Applicant/inventor.

OR

☒ Assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) (Form PTO/SB/81) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature		Date	12/23/2011
Name	Sherrie Frieling	Telephone	561-997-2207
Title and Company	Managing Member, SmartBoat LLC		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.